

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PARIS DA'JON ALLEN,

Case No. 15-CV-1905 (MJD/JJK)

Plaintiff,

v.

REPORT AND RECOMMENDATION

KENT GRANDLIENARD, OPH; DAVID
REISHUS, OPH; TAMMY WHERLEY,
OPH; KATHY REID, OPH, Health Service
Administrator; RN KELLY CLASSEN, OPH;
DR. STEPHEN CRANN; DIETIAN
HEALTH SERVICE; LT. COSTELLO, OPH;
RICHARDO LOPEZ, OPH; and CORY
BALLANTYNE,

Defendants.

Plaintiff Paris Da'jon Allen, a state prisoner, commenced this action by filing a complaint seeking relief for alleged violations of his constitutional rights. Allen did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis*. See ECF No. 2. In an order dated April 28, 2015, this Court ordered that Allen pay an initial partial filing fee of \$14.48, as required under 28 U.S.C. § 1915(b), within 20 days of the date of that order, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

That deadline has now passed, and Allen still has not yet paid the initial partial filing fee required for this case. In fact, Allen has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to

prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED THAT:

1. This action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Plaintiff Paris Da'jon Allen's application to proceed *in forma pauperis* [ECF No. 2] be DENIED AS MOOT.

Dated: May 26, 2015

s/ Jeffrey J. Keyes

JEFFREY J. KEYES

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore, not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.